Supreme Court, U.S.
FILED
SEP 29 1998
OFFICE OF THE CLERK

NO. 98-275

IN THE

SUPREME COURT OF THE UNITED STATES

October Term 1997

BEAUFORD D. EDDLETON,

Petitioner,

v.

BOARD OF SUPERVISORS OF
HANOVER COUNTY,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE VIRGINIA SUPREME COURT

Reply Brief in Opposition

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STATEMENT OF THE CASE

On page 1 of the Respondent's Brief in Opposition, the County argues that "Eddleton requested a temporary injunction, enjoining the County from enforcing the Ordinance pertaining to outdoor music festivals . . . " This statement is false and incorrect. The Hanover Society for the Deaf, Inc., filed that suit. The Hanover Society for the Deaf, Inc. was the sponsor of the Beach & BBQ Music Party scheduled for July 9, 1994 (See Appendix) The Hanover Society for the Deaf, Inc., and its members, wanted the Hanover Circuit Court to enjoin the County from prosecuting them for holding this function without a permit.

A letter threatening prosecution was received a very short time prior to the scheduled party.

The Trial Court, acting with a non resident Judge, ruled that under Virginia Law, he could not enjoin, in advance, authorities from issuing criminal charges. He specifically stated he was not deciding the underlying issues in dispute.

Beauford Eddleton was not a party to that suit. See Appendix, Virginia Supreme Court Opinion dated 20th October, 1995.

He filed his declaratory judgment petition to determine his rights. The issues raised in his Petition were not adjudicated in that case (See Appendix, Virginia Supreme Court Opinion, dated October 20, 1995. The County inferences to the contrary are false and misleading.

CONCLUSION

A Petition for Writ of Certiorari should be granted.

Respectfully Submitted,

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APPENDIX

BEACH & BBQ

MUSIC PARTY

HERE:

JAMAICA COUNTRY CLUB
4 MILES SOUTH OF ASHLAND
ON US. #1 HIGHWAY

WHEN:

SATURDAY JULY 9, 1994
FROM 4 PM. TO 10PM.

ADVANCE ADMISSION IS $ 15.00 PER PERSON WHICH INCLUDES

MUSIC BY KING EDWARD AND THE BD'S
ALL THE BBQ AND FIXINGS THAT YOU CAN EAT
SWIMMING IN OUR LARGE OLYMPIC SIZE POOL
DANCING IN OUR COVERED PATIO AND HUGE DANCE FLOOR
***FREE BEER AND SOFT DRINKS ***

ADVANCE TICKETS ON SALE AT THE FOLLOWING LOCATIONS:

THE JAMICA CLUB AND THE FOLLOWING AREA FAS-MART STORES: MECHANICSVILLE NEAR LEE DAVIS HIGH SCHOOL, VARINA, ASHLAND, DOSWELL, MONTPELIER, AND STAPLES MILL ROAD ACROSS FROM THE MCDONALD'S RESTAURANT.

Sponsored by the Hanover Society for the Deaf, Inc. a non-profit charity

NO FRISBEES, COOLERS, WATER-GUNS, OR GLASS WILL BE ALLOWED INSIDE OF THE GATE

FOR MORE INFORMATION CALL 798-6996

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 20th day of October, 1995.

Beauford D. Eddleton, Appellant,

against Record No. 942116
Circuit Court No. 289-94

Board of Supervisors of Hanover County, Appellee.

Upon an appeal from a judgment rendered by the Circuit Court of Hanover County on the 13th day of September, 1994

Upon consideration of the record, the briefs, and the argument of counsel, the Court is of opinion the judgment of the trial court should be reversed for the following reasons: (1) the petition for declaratory judgment is not barred by the doctrine of res judicata because (a) plaintiff was not a party to the former adjudication and (b) the issues raised in the petition were not adjudicated therin; and (2) the petition is sufficient to state an actual

antagonistic assertion and denial of right under the provisions of Code Section 8.01-184. Board of Supervisors v. Rowe, 216 Va. 128, 132, 216 S.E. 2d 199, 204-05 (1975).

Accordingly, the judgment in favor of the appellee is reversed and the case is remanded to the circuit court for further proceedings.

This order shall be certified to the said circuit court.

A Copy,

Teste:

David B. Beach,
Clerk